



Nebraska Sales and Use Tax **WELL DRILLERS** Spring 2013

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Spring 2013 - 2

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Spring 2013 - 4

Agenda

1. Overview of Sales Tax
 - A. Taxable Services
 - B. Well drillers are consumers...
2. Contractor Information
 - A. Contractor Database
 - B. Contractor Terms
 - C. Three Types of Transactions
 - D. Contractor Options
 - E. Job Site Outside of Nebraska
3. Commercial & Residential Wells
4. Contracts with Exempt Entities
5. Contracts for Agricultural Wells
 - A. Repair and Replacement Parts
6. Contracts for Wells Used in the Manufacturing Process
 - A. Manufacturing Machinery & Equipment (MME)
7. Recognize What is Taxable & Document What is

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Spring 2013 - 5

1. Overview of Sales Tax

[Back to agenda](#)

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Spring 2013 - 6

1. Overview of Sales Tax

- What is a sales transaction?
- Sales tax is calculated on the gross receipts.
- Delivery location determines the rate of local tax.
- Sellers must collect sales tax or document why they didn't.
- What is use tax?

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1. What is a Sales Transaction?

A **SALE** is

- the transfer of title or possession,
- of an item or taxable service,
- for consideration.

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1. Sales Transaction (continued)

SALES TAX is

- a transactional tax,
- based on the transaction,
- rather than the item sold.

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The Bottom Line For Sales Tax

**Sellers must collect sales tax
– OR –
document why they did not.**

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1. Sales Transaction (continued)

A LEASE OR RENTAL

- is a SALE,
- because there is a transfer of POSSESSION.

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1A. Taxable Services

- Computer software training
- Pest control services
- Building cleaning
- Security services
- Detective services
- Motor vehicle towing, washing/waxing, painting
- Installing/applying tangible personal property
- Animal specialty services
- Recreational vehicle (RV) park services
- Repair labor (with 4 exceptions)

For a complete list of taxable and nontaxable services,
see the Nebraska and Local Sales Tax Information Guide on our website.

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Spring 2013 - 12

1A. Service Providers...

...are the **consumers** of the items used to provide the service; and
...**must pay sales tax** on those items
(even if the charge for the service is also taxable).

Example 1 – The carwash does not sell soap and wax, but a “**car wash.**”

Example 2 – A window cleaner is not selling window cleaner, but “**clean windows.**”

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Spring 2013 - 13

1B. Well drillers are consumers...

...who must pay sales tax on supply items.

➤ **Examples of supply items -**

- Antifreeze
- Drilling Fluids
- Drilling Mud
- EZ Mud
- Grease
- Hydraulic Oil
- Motor Oil
- Quick Gel

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Spring 2013 - 14

1B. Well drillers are consumers...

...who must pay sales tax on tools and equipment.

➤ **Examples of tools and equipment -**

- Drilling Equipment
- Drilling Rigs
- Vehicles
- Wrenches and Gauges

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Spring 2013 - 15

1B. Well drillers are consumers...

...EVEN WHEN THEY ARE
CONTRACTORS!

Building materials **DO NOT INCLUDE** tools, equipment, or services that do not become annexed to real estate.

Contractors **MUST PAY SALES OR
USE TAX** on purchases of these items!

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Spring 2013 - 16

2. Contractor Information

[Back to agenda](#)

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2A. Contractor Database

- **EVERY** construction contractor making payment to a subcontractor must withhold 5%;...
- **UNLESS** the subcontractor is registered in the Department of Labor's Contractor Registration Database.

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2A. Contractor Database (continued)

- A single definition of "contractor" is used for purposes of the **Contractor Registration Act** and construction contractor **income tax withholding**.
(This definition is slightly different than the sales and use tax definition of a contractor.)
- A centralized registration system is used for construction contractors.
- The Department of Labor administers the Contractor Database.

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Spring 2013 - 19

2B. Contractor Terms

- Construction Contractor
- Contractor Labor
- Building Materials
- Fixtures

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Spring 2013 - 20

2B. Term – Construction Contractor (Contractor)

- Makes repairs or improvements to real property or items annexed to real property.
- Arranges for the annexation.
 - **Examples of construction projects -**
 - Residential wells
 - Agricultural wells
 - Commercial wells

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Spring 2013 - 21

2B. Term – Contractor Labor

- Annexing building materials to real estate.
- Repair of a structure.
- Repair of building materials that are or will be annexed to real estate.

Charges for contractor labor are sales tax exempt.

- **Example -** Annexing well pump

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Spring 2013 - 22

2B. Term – Building Materials

- Property (including fixtures) that will be annexed to real estate or to an improvement on real estate.
 - **Examples -**
 - Casing
 - Concrete
 - Electrical panel
 - Gravel
 - Sand
 - **Do Not Include -**
 - Equipment
 - Supplies
 - Tools
 - Other items not annexed

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Spring 2013 - 23

2B. Term – Fixtures

- Equipment that is annexed to a building or structure so that it can properly function.
- Fixtures remain identifiable as a separate item.
 - **Examples -**
 - Air valves
 - Column tube shafts
 - Couplers
 - Faucet fittings
 - Heads
 - Oil assemblies
 - Pressure gauges
 - Pumps
 - Swing check valves

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2C. Three Types of Transactions

1. **Retail Sales** (TPP & Taxable Services)
Taxable at the rate in effect where delivery occurs
2. **Contractor Labor** (Well drillers are contractors)
Sales tax exempt
3. **Nontaxable Services**

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Spring 2013 - 25

2D. Contractor Options

- Contractor Options apply only to **Construction Contractor Projects (CCP)**.
- Option chosen determines:
 - How sales and use tax is paid on building materials and fixtures; or
 - If sales tax is collected from the customer on building materials and fixtures.
- If an Option is not chosen, the default is Option 1. Audits will be conducted based on option chosen.

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Spring 2013 - 26

2D. Option 1 Contractor

- **Transactions with the Supplier**
 - Purchases building materials and fixtures **sales tax exempt** for resale.
 - Must give Nebraska supplier a properly completed **Form 13, Section C, Block 1**.
- **Transactions with the Customer**
 - **Does not collect sales tax** on separately stated charges for construction labor.
 - **Must collect sales tax** on separately stated charges for building materials and fixtures.
 - If the charges are not separately stated, the entire amount is **taxable**.

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Spring 2013 - 27

Form 13, Section C, Block 1

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2D. Option 2 Contractor

➤ Transactions with the Supplier

- Pays sales or use tax on purchases of building materials and fixtures.

➤ Transactions with the Customer

- Does **NOT** collect sales tax on any portion of the invoice. Cannot accept a Form 13.

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Spring 2013 - 29

2D. Option 3 Contractor

➤ Transactions with the Supplier

- Purchases building materials and fixtures **sales tax exempt**.
- Must give Nebraska supplier a properly completed Form 13, Section C, Block 1.

➤ Transactions with the Customer

- **Must remit use tax** at the rate in effect at the time and place of withdrawal of building materials and fixtures from inventory.
- Does **NOT** collect sales tax on any portion of the invoice. Cannot accept a Form 13.

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Spring 2013 - 30

Form 13, Section C, Block 1

Nebraska Resale or Exempt Sale Certificate FORM 13

REVENUE NAME AND MAILING ADDRESS OF PURCHASER NAME AND MAILING ADDRESS OF SELLER

NAME _____ NAME _____

Street or Other Mailing Address _____ Street or Other Mailing Address _____

City _____ State _____ Zip Code _____ City _____ State _____ Zip Code _____

Check Type of Certificate ☐ Single Purchase ☐ Blanket. If blanket is checked, this certificate is valid until revised in writing by the purchaser.

I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:

Check One ☐ Purchase for Resale (Complete Section A) ☐ Exempt Purchase (Complete Section B) ☐ Contractor (Complete Section C)

SECTION A—Nebraska Resale Certificate

I hereby certify that the purchase, lease, or rental of _____ Description of item or service purchased _____ from the above seller is exempt from the Nebraska sales tax as a purchase for resale, lease, or rental in the normal course of our business, either in the State or in another state, or in a foreign country, or as a component part of other property to be resold.

I further certify that we are engaged in business as a: ☐ Wholesale ☐ Retail ☐ Manufacturer ☐ Lessee

of: _____ Description of product sold, leased, or rented _____

and hold Nebraska Sales Tax Permit Number _____ If none, State Reason _____

or Foreign State Sales Tax Number _____ State _____

SECTION B—Nebraska Exempt Sale Certificate

The basis for this exemption is exemption category _____ (Insert appropriate category as described on reverse of this form.)

If exemption category 2 or 5 is claimed, enter the following information:

Description of property purchased _____ Estimated Use of Property Purchased _____

If exemption category 3 or 4 is claimed, enter the Nebraska Exemption Certificate number: _____

If exemption category 6 is claimed, enter the following information and sign this form below:

Description of property sold _____ Date of Seller's Original Purchase _____ Was Tax Paid when Purchased by Seller? ☐ Yes ☐ No Was Item Depreciated? ☐ Yes ☐ No

SECTION C—For Contractors Only

1. Purchases of Building Materials or Fixtures:

☐ As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. I hereby certify that I am not collecting sales tax on these purchases.

2. Purchases Made Under Purchasing Agent Appointment on behalf of _____ (Insert name of customer.)

☐ Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for the Sales and Use Tax, Form 17, I hereby certify that purchases of building materials and fixtures are exempt from Nebraska sales tax.

I hereby certify that the purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. I am not collecting sales tax on these purchases.

sign here _____

Authorized Signature _____ Title _____ Date _____

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Spring 2013 - 31

2E. Building Materials & Fixtures for a Job Site Outside Nebraska

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2E. Option 1 (Out-of-state)

NO NEBRASKA SALES OR USE TAX LIABILITY

- There is **no sales or use tax due** when the Option 1 contractor withdraws building materials and fixtures from a **tax-free inventory...**
- ...which are annexed to real estate in another state.

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Spring 2013 - 33

2E. Option 2 (Out-of-State)

NO NEBRASKA SALES TAX CREDIT

- The Option 2 contractor **cannot get a sales tax credit** when withdrawing building materials & fixtures from **tax-paid inventory.**
- Credit for sales tax paid may be available from the other state.
- These contractors may have the supplier deliver materials to the job site out-of- state and **pay no Nebraska sales & use tax.**

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Spring 2013 - 34

Option 3 (Out-of-State)

REMITTS USE TAX TO NEBRASKA

- The Option 3 contractor **must remit use tax** when withdrawing building materials and fixtures from the **tax-free inventory...**
- ...at the rate in effect at the time and place inventory is withdrawn.
- These contractors may have the supplier deliver materials to the job site out-of- state and **pay no Nebraska sales & use tax.**

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Spring 2013 - 35

3.

Construction Contracts for Commercial & Residential Wells

[Back to agenda](#)

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Spring 2013 - 36

3. Commercial & Residential Wells

Option 1 Well Drillers

- **Do not collect sales tax** on separately-stated charges for construction labor.
- **Must collect sales tax** on separately-stated charges for building materials and fixtures.

Option 2 or 3 Well Drillers

- **Do not collect sales tax** on any portion of the invoice. Cannot accept a Form 13.

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Spring 2013 - 37

4. Construction Contracts with Exempt Entities

[Back to agenda](#)

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Spring 2013 - 38

4. Exempt Entities

- How do I know if the project owner is an exempt entity?
 - [Governmental Entity information guide](#)
 - [Nonprofit information guide](#)
 - [Contact the Department](#)

IMPORTANT REMINDER:

Not **ALL** nonprofits or governmental units are exempt from sales tax!

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Spring 2013 - 39

4. Exempt Entities (continued)

Governmental units that sell electricity, gas, heat, or water

The following governmental units can sell these items and still claim a **sales tax exemption**:

- Nebraska irrigation districts;
- Nebraska reclamation districts; and
- Any Nebraska public power irrigation district.

Any other **DEPARTMENTS** or portions of governmental units that sell electricity, gas, heat or water are **not sales tax exempt**.

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Spring 2013 - 40

4. Exempt Entities (continued)

Governmental units that sell electricity, gas, heat, or water

- A well driller can invoice the departments of **governmental units that are not sales tax exempt** the same way it would invoice for a commercial well.
- For all other **exempt governmental units and exempt entities** (for example, airport authorities), the well driller should obtain a Form 17 prior to the start of the project.

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Spring 2013 - 41

Form 17

“Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax”

- Supports **why tax was not paid or collected** on building materials and fixtures for construction projects with exempt entities.

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Spring 2013 - 42

4. Exempt Entities (continued)

PRIME CONTRACTORS

- Receive Form 17 from project owner **PRIOR TO** the start of the project.
- Complete the lower portion.
- Provide copies to any subcontractors on the project so they can buy building materials and fixtures **sales tax exempt**.

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Spring 2013 - 43

Form 17

Nebraska Department of REVENUE		Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax		FORM 17
PURCHASING AGENT APPOINTMENT				
Name and Address of Prime Contractor		Name and Address of Governmental Unit or Exempt Organization		
Name		Name		
Street or Other Mailing Address		Street or Other Mailing Address		
City	State	City	State	Zip Code
Name and Location of Project		Appointment Information		
Name		Effective Date (see instructions)		
Street or Other Mailing Address		Expiration Date		
City	State	City	State	Zip Code
Identify Project		Nebraska Exemption Number (Exempt Organizations Only)		
The undersigned governmental unit or exempt organization appoints the above-named contractor and the contractor's delegated subcontractors as its agent to purchase and pay for building materials that will be annexed to real estate by them into the tax exempt construction project stated above.				
sign here		Authorized Signature of Governmental Unit or Exempt Organization		
		Title		
		Date		
DELEGATION OF PRIME CONTRACTOR'S AUTHORITY				
Name and Address of Subcontractor		Delegation Information		
Name		Effective Date		
Street or Other Mailing Address		Expiration Date		
City	State	City	State	Zip Code
Identify Project		Portion of Project		
The undersigned prime contractor hereby delegates authority to act as the purchasing agent of the named governmental unit or exempt organization to the above-named subcontractor.				
sign here		Signature of Prime Contractor or Authorized Representative		
		Title		
		Date		

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Spring 2013 - 44

4. Contracts with Exempt Entities (continued)

OPTION 1 PRIME CONTRACTORS

- Receive Form 17 and Form 13 from project owner **PRIOR TO** the start of the project.
- Complete the Delegation of Prime Contractor's Authority portion of the Form 17.
- Complete a Form 13 and provide it with a copy of the Form 17 to Option 1 subcontractors.
- Provide copies of the Form 17 to any Option 2 or 3 subcontractors on the project so they can buy building materials and fixtures sales tax exempt.

45

4. Exempt Entities (continued)

OPTION 2 CONTRACTOR

- Purchases building materials & fixtures **sales tax exempt** by giving:
 - A copy of Form 17; and
 - Form 13, Section C, Block 2;to the Nebraska supplier.

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Spring 2013 - 46

4. Exempt Entities (continued)

OPTION 3 CONTRACTOR

- Purchases building materials & fixtures **sales tax exempt** by giving Form 13, Section C, Block 1 to the Nebraska supplier.
- **DOES NOT owe use tax** on items when it obtains a properly completed Form 17 **PRIOR TO** the start of the project.

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Spring 2013 - 47

4. Exempt Entities (continued)

- **ONLY** building materials and fixtures that become annexed to real estate may be purchased **sales tax exempt**.
- Contractors **MUST pay sales or use tax** on all purchases or rentals of equipment, tools, and taxable services used to complete the project.

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Spring 2013 - 48

4. Exempt Entities (continued)

Routine, On-call Repair for Exempt Entities

Contractors who are on-call for exempt entities may obtain a **Form 17** for routine, on-call repair. ??

- There must be a written agreement.
- One year period of time only.

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Spring 2013 - 49

5.

Construction Contracts for Agricultural Wells

[Back to agenda](#)

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Spring 2013 - 50

5. Agricultural Wells

Option 1 Well Driller

- **Does not collect sales tax** on separately-stated charges for construction labor.
- If a **Form 13**, Section B, Category 2 is received from the farmer/producer, then the separately-stated charges for the well fixtures are **sales tax exempt**.
- The charges for building materials that are not fixtures (for example, casings) are **taxable**.

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Spring 2013 - 51

Form 13, Section B

Nebraska Resale or Exempt Sale Certificate FORM 13
for Sales Tax Exemption
Read instructions on reverse side before using.

SECTION A - Nebraska Resale Certificate

I hereby certify that the purchase, lease, or rental of:
from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the
State or conditions in which purchased, or as an integral or component part of other property to be resold.

I further certify that we are engaged in business as a:
☐ Retailer ☐ Manufacturer ☐ Contractor (Complete Section C)

SECTION B - Nebraska Exempt Sale Certificate

The basis for this exemption is exemption category: (Check appropriate category as described on reverse of this form.)
If exemption category 2 or 3 is claimed, enter the following information:
Description of property purchased: _____ Intended use of property purchased: _____
If exemption category 4 or 5 is claimed, enter the Nebraska Exemption Certificate number: 05-_____
If exemption category 6 is claimed, enter the following information and sign this form below:
Description of property sold: _____ Date of Seller's Original Purchase: _____ Was Tax Paid when Purchased by Seller? ☐ YES ☐ NO
Was Item Depreciated? ☐ YES ☐ NO

SECTION C - For Contractors Only

1. **Purchases of Building Materials or Fixtures:**
☐ As an Option 1 or Option 2 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from the Nebraska sales tax, only if the seller is a contractor or a contractor's agent. (See the Nebraska Exemption Certificate number on the reverse of this form.)

2. **Purchases Made Under Purchasing Agent Appointment on behalf of:** _____ (Insert name)
☐ Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.

sign here
Signature: _____ Date: _____

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Spring 2013 - 52

5. Agricultural Wells (continued)

Option 2 Well Driller

- When drilling an **AGRICULTURAL** well, the contractor **may NOT purchase ANY building materials or fixtures sales tax exempt.**

Option 3 Well Driller

- When drilling an **AGRICULTURAL** well, the contractor still **owes use tax** on the cost of all building materials and fixtures.

Option 2 and 3 well drillers do NOT collect sales tax on any portion of the invoice. They cannot accept a Form 13.

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Spring 2013 - 53

5A. Repair & Replacement Parts

- Repair and replacement parts for ag equipment (for example, well fixtures) are **NOT exempt from sales and use taxes.**
- Purchasers of repair parts, when used for commercial ag equipment, **cannot issue a Form 13** to exempt these purchases.
- Repair labor for ag equipment is **sales tax exempt PROVIDED** it is separately stated on the customer's invoice.

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Spring 2013 - 54

5A. Repair & Replacement Parts (continued)

- HOWEVER**, the purchaser may apply for a **refund of sales tax** if:
 - The repair parts are depreciable; and
 - The property repaired is qualified ag equipment.
- To obtain a refund, file a **Form 7AG-1** within three years of the date of purchase.

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Spring 2013 - 55

Form 7AG-1

Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases						FORM 7AG-1
						
FEDERAL EMPLOYER I.D. OR SOCIAL SECURITY NUMBER						
NAME AND MAILING ADDRESS OF PURCHASER/LESSEE						
City						
State						
Zip Code						
If leased, will this property be leased or rented for less than one year?						
<input type="checkbox"/> YES <input type="checkbox"/> NO						
QUALIFYING AGRICULTURAL MACHINERY AND EQUIPMENT						
Description of Property (List Each Item Separately)	Date Purchased/Leased	Net Purchase/Lease Price	Local Jurisdiction Imposing Tax	Local Sales and Use Tax Paid	Nebraska Sales and Use Tax Paid	
1	Mo. Day Yr.	\$		\$	\$	
2						
3						
4						
5						
6 Total local sales and use tax paid				6	\$	
7 Total Nebraska sales and use tax paid				7	\$	
8 Total refund claimed for Nebraska and local sales and use tax paid (total of lines 6 and 7). No refund will be made if the total amount claimed is less than \$2.00				8	\$	
I declare, under penalties of perjury, that I have examined this claim, and to the best of my knowledge and belief, it is correct and complete. I also declare that payment of this claim has not been previously made by the state, nor have I claimed or received a refund from the retailer.						
sign here						
Signature of Purchaser, Lessee, or Agent						
Printed Name						
Telephone Number						
Date						

For more detailed information, refer to the **Form 7AG-1 instructions**.

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Spring 2013 - 56

6. Construction Contracts for Wells Used in the Manufacturing Process

[Back to agenda](#)

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Spring 2013 - 57

6. What is Manufacturing?

Manufacturing is...

performing any action or series of actions on tangible personal property – by hand or machine – resulting in the property being reduced or transformed into a different...

- Form
- State
- Property
- Thing
- Quality

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Spring 2013 - 58

6. What is manufacturing? (continued)

Manufacturing **does not** include:

- Bottling
- Commercial agricultural operations or support of those operations
- Document shredding
- Generation or transmission of electricity
- Mining
- Preparation of food for immediate consumption
- Production or transmission of information or data
- Purification or transportation of water
- Retail operations
- Sorting

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6A. Manufacturing Machinery & Equipment (MME)

MME is machinery or equipment:

- Used in manufacturing; and
- Purchased by a person or entity engaged in the business of manufacturing.

MME can be purchased sales tax exempt.

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Spring 2013 - 60

6A. MME (continued)

Machinery and equipment is **exempt from sales and use taxes** when **BOTH** these criteria have been met:

1. More of the manufacturer's total annual revenue is from sales of tangible personal property they manufacture than from any other business activity;
- AND**
2. The machinery and equipment is used more than 50% of the time in manufacturing.

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Spring 2013 - 61

6A. MME (continued)

- When work on MME involves charges for contractor labor:
 - **Contractor labor is sales tax exempt; &**
 - Contractor option chosen determines **taxability** of purchases of MME, or any repair parts.

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Spring 2013 - 62

6A. Option 1 (MME)

- Obtains Form 13, Section B, Category 5 from the manufacturer.
- May **purchase building materials & fixtures sales tax exempt**.
- **Does not collect sales tax** on MME (for example, well fixtures) **PROVIDED** a completed Form 13 is received from the manufacturer.
- Will **collect tax** on building materials (for example, casings) that are not fixtures.

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Spring 2013 - 63

Form 13, Section B

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Spring 2013 - 64

6A. Options 2 & 3 (MME)

- Both Options **owe sales or use tax** on MME (for example, well fixtures) and on parts purchased and annexed to the manufacturer's real estate.
- **Cannot accept** a Form 13, Section B, Category 5 from the manufacturer.
- **Manufacturer** can purchase MME **sales tax exempt** directly from a 3rd party vendor.

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Spring 2013 - 65

7. Recognize What is Taxable & Document What is Exempt

[Back to agenda](#)

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Spring 2013 - 66

7. Recognize What is Taxable & Document What is Exempt

Option 1

Taxable

- City water department well
- Manufacturer - other well
- Residential well

Option applies
Option applies
Option applies

Sales Tax Exempt

- Ag equipment for well (new only)
- Manufacturer - MME well
- U.S. Government well

Form 13, Section B
Form 13, Section B
Form 17 and Form 13

Equipment rental is taxable to the contractor.

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Spring 2013 - 67

Taxable & Exempt (continued)

Options 2 & 3

Taxable

- Ag equipment for well
- City water department
- Manufacturer - MME well
- Manufacturer - other well
- Residential well

Option applies
Option applies
Option applies
Option applies
Option applies

Sales Tax Exempt

- U.S. Government well

Form 17

Equipment rental is taxable to the contractor.

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Spring 2013 - 68

8. Overview of Use Tax

[Back to agenda](#)

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Spring 2013 - 69

Use Tax

- Use tax is due **ONLY** when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- It is **NOT a duplication** of sales tax
- The difference is **WHO** remits the tax:
 - **Sales tax** is collected and remitted by the **seller**.
 - **Use tax** is remitted by the **purchaser/consumer/contractor**.

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Spring 2013 - 70

Use Tax (continued)

- Use tax and sales tax have these things in common:
 - Calculated at the same rate
 - Imposed on the same transactions
 - Have the same exemptions

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Spring 2013 - 71

Use Tax (continued)

- **Use tax is often due** when purchases are made by an Option 2 or 3 contractor and:
 - Building materials or fixtures are picked up in another state; or
 - Building materials or fixtures are delivered to the job site by a supplier who does not charge sales tax.
- **Use tax is due** when any contractor withdraws **tax-free inventory** for business or personal use.

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Spring 2013 - 72

Contractor Reminder:

- Building materials **DO NOT INCLUDE** tools, equipment, or services that do not become annexed to real estate.
- Contractors **MUST PAY SALES OR USE TAX** on purchases of these items!

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Spring 2013 - 73

7J. Psychic Services

Nontaxable services include:

- Counseling
- Palm Reading
- Tarot Reading
- Astrology Reading
- Chakra Balancing

Note: Books, magazines, and other tangible personnel property are generally subject to tax.

2013 - 74



**Let us know what you think.
Please turn in your evaluation!**

THANK YOU!

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Spring 2013 - 75